

Department of Veterans Affairs

§ 1.914

existence or amount of the debt in accordance with § 1.911(c)(1), offset shall not commence until the dispute is reviewed as provided in § 1.911(c)(1) and unless the resolution is adverse to the debtor.

(2) If the debtor, within thirty days of the date of notification required by paragraph (b) of this section, requests, in writing, waiver of collection in accordance with § 1.963 or § 1.964, as applicable, offset shall not commence until the Department of Veterans Affairs has made an initial decision on waiver.

(3) If the debtor, within thirty days of the notification required by paragraph (b) of this section, requests, in writing, a hearing on the waiver request, no decision shall be made on the waiver request until after the hearing has been held.

(4) VA will pursue collection action once an adverse initial decision is reached on the debtor's request for waiver and/or the debtor's informal dispute (as described in § 1.911(c)(1)) concerning the existence or amount of the debt, even if the debtor subsequently pursues appellate relief in accordance with parts 19 and 20 of this title.

(d) *Exceptions.* Offset may commence prior to the resolution of a dispute or a decision on a waiver request if collection of the debt would be jeopardized by deferral of offset. In such case, notification pursuant to § 1.911(d) shall be made at the time offset begins or as soon thereafter as possible.

(Authority: 38 U.S.C. 5314, Ch. 37)

(e) *Offset of military service debts.* (1) In accordance with 38 U.S.C. 5301(c), VA shall collect by offset from any current or future compensation or pension benefits payable to a veteran under laws administered by VA, the uncollected portion of the amount of any indebtedness associated with the veteran's participation in a plan prescribed in subchapter I or II of 10 U.S.C. chapter 73.

(2) Offsets of a veteran's compensation or pension benefit payments to recoup indebtedness to the military services as described in paragraph (e)(1) of this section shall only be made by VA when the military service owed the debt has:

(i) Determined the amount of the indebtedness of the veteran;

(ii) Certified to VA that due process in accordance with the procedures prescribed in 31 U.S.C. 3716 have been provided to the veteran; and

(iii) Requested collection of the total debt amount due.

(3) Offset from any compensation or pension benefits under the authority of 38 U.S.C. 5301(c) shall not exceed 15% of the net monthly compensation or pension benefit payment. The net monthly compensation or pension benefit payment is defined as the authorized monthly compensation or pension benefit payment less all current deductions.

(Authority: 38 U.S.C. 5301(c) and 5314)

[48 FR 1055, Jan. 10, 1983, as amended at 52 FR 42106, Nov. 3, 1987; 57 FR 47263, Oct. 15, 1992; 69 FR 62194, Oct. 25, 2004]

§ 1.913 Liquidation of collateral.

(a) VA should liquidate security or collateral through the exercise of a power of sale in the security instrument or a nonjudicial foreclosure, and apply the proceeds to the applicable debt, if the debtor fails to pay the debt within 180 days after demand and if such action is in the best interest of the United States. Collection from other sources, including liquidation of security or collateral, is not a prerequisite to requiring payment by a surety, insurer, or guarantor, unless such action is expressly required by statute or contract.

(b) When VA learns that a bankruptcy petition has been filed with respect to a debtor, VA should seek legal advice from VA's General Counsel or Regional Counsel concerning the impact of the Bankruptcy Code, including, but not limited to, 11 U.S.C. 362, to determine the applicability of the automatic stay and the procedures for obtaining relief from such stay prior to proceeding under paragraph (a) of this section.

(Authority: 31 U.S.C. 3711; 38 U.S.C. 501)

[69 FR 62195, Oct. 25, 2004]

§ 1.914 Collection in installments.

(a) Whenever feasible, VA shall collect the total amount of a debt in one